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21-2-2000

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 15TH DAY OF APRIL, 1998

BEFORE

THE HON'BLE MR.JUSTICE H.RANGAVITTALACHAR

HRRP NO.576/1998

BETWEEN:-

Vinodkumar Garg,

S/o.Ramaprasad Garg,

Age : Major,

No.4/3, Basavanapura Road,

Krishnarajapuram,

Bangalore - 560 036.

... PETITIONER

(By Sri.B.Ugrappa, Adv.)

A N D:-

Venkatarangaiah,

S/o.Govindamma,

Aged about 45 years,

No.618, Katha No.675,

B.Narayanapura,

Basavanapura Road,

Krishnarajapuram,

Bangalore - 560 036.

... RESPONDENT

(By Sri.K.Ramesh, Adv. for C/r).

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-: 2 :-

HRRP is filed U/s.50(1) of the K.R.C. Act against the order dated 9-3-1998 passed in Misc.No.10025/1997 on the file of the XIII Additional Judge, Court of Small Causes, Bangalore.

This HRRP coming on for admission this day, the court made the following:

O R D E R

Petitioner herein had filed an eviction petition against the respondents and obtained an ex-parte order. Tenant after coming to know of the same, has filed an application under Order 9 Rule 13 of CPC for setting ^{aside} ~~aside~~ the same. This application of the tenant was resisted by the landlord and an enquiry was conducted by the learned Judge of the Small Causes, Bangalore, in Misc. No.10025/97. The landlord examined himself and also the Court Amin to prove that the summons of the HRC proceedings was duly served and therefore the application has to be rejected.

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-: 3 :-

Learned Judge disbelieved the evidence and also the evidence of the amin on the ground that the amin had not followed the procedure contemplated under Order 5 Rule 18 of CPC which prescribes the manner in which summons has to be served. Consequently the learned Judge allowed the petition setting aside the ex-parte order.

I agree with the reasonings of the learned Judge as admittedly summons has not been served in the manner prescribed under Order 5 Rule 18 of CPC which is mandatory.

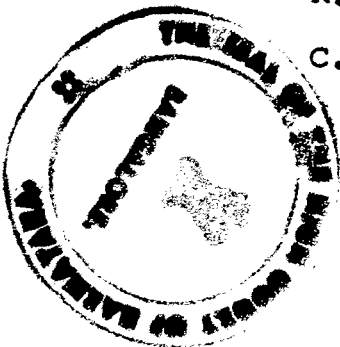
There is no merit in this petition. Petition rejected.

Sd/-
JUDGE.

vns.

R. By : *AD*

C. By : *CR*



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Assistant Registrar
High Court of Karnataka
Bangalore-560 001

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